



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

MEMORANDUM

TO: The Commission

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SUBJECT: MUR 6228 (Fannie Lou Hamer Federal PAC)

I. Introduction

We submit this memorandum to update the Commission regarding information received from the Fannie Lou Hamer Federal Political Action Committee and Edwin K. Washington, in his official capacity as treasurer ("Respondents"), subsequent to the Commission's Reason To Believe finding. On November 3, 2009, the Commission found reason to believe that the Respondents violated 2 U.S.C. § 434a(4)(A)(i) and (iii) by their failure to file timely reports between 2004 and 2007. On November 9, 2009, the Respondents notified the Reports Analysis Division ("RAD") that they had completed an internal review and filed amended reports covering the time period of April 1, 2004 through September 30, 2007.

Given the amount of activity, we do not believe that this matter warrants continued use of the Commission's resources and recommend that the Commission take no further action in this matter, close the file, and issue a caution to Respondents given their history of filing reports late or not at all. We also submit a draft Factual and Legal Analysis consistent with these recommendations.

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## **II. Background**

### **A. Pre-RTB Proceedings**

The RAD referral concerns a pattern of late reporting between 2004 and 2008 by the Respondents. The Respondents ceased filing reports in 2004 after their August 10, 2004, submission of the 2004 April Quarterly Report covering January 1 through March 31, 2004. The Respondents received Notices of Failure to File (RQ-7s) for all required subsequent reports starting with the 2004 July Quarterly Report through the 2006 Year End Report. The Respondents did not respond to any of the RQ-7s and did not contact RAD until August 7, 2007, almost five months after being notified of RAD's intent to administratively terminate.<sup>1</sup> However, the Respondents had several telephone conversations with RAD between September 3, 2008, and April 6, 2009, in an attempt to rectify the previous filing lapses. Between October 29, 2008, and March 13, 2009, the Respondents electronically filed all of the previously unfiled reports.<sup>2</sup> The filed reports collectively disclosed \$418,572.00 in total receipts and \$393,573.94 in total disbursements.<sup>3</sup>

On August 7, 2009, we provided notification of the referral to the Respondents in accordance with agency procedure and, on September 4, 2009, we received a response to the notification letter. Respondents stated that the "matter before you concerns an administrative oversight, which has been corrected." Respondents acknowledge that the former treasurer did not timely file the reports. The Committee questioned the treasurer and discovered that he had not filed the reports timely because of a "series of personal and familial tragedies that resulted in an inability to discharge his duties." *Id.* According to Respondents, they had retained and commissioned a new tax specialist in December 2008, to bring the Committee into compliance with the Act. *Id.* Respondents further state that "a new set of controls and oversight have been adopted by the Committee's board to insure [sic] that such an administrative lapse does not re-occur." *Id.*

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<sup>1</sup> RAD administratively terminated the Respondents' filing requirements on April 16, 2007, after they did not provide a written objection to the Commission's intended Administrative Termination Notice dated March 15, 2007. The letter also informed the Respondents that "any receipt or disbursement of funds by the committee for the purpose of influencing a Federal election or supporting a federal candidate will void the administrative termination."

<sup>2</sup> The Respondents were assessed a civil penalty of \$500 in an Administrative Fine Program matter AF-2062 for failure to timely file the 2008 Year End Report. They paid the \$500 civil penalty on July 22, 2009, and the case was closed. Therefore, the 2008 Year End report was not considered for possible violations or civil penalties in the First General Counsel's Report ("FGCR").

<sup>3</sup> On February 20, 2009, RAD sought a written explanation from the Respondents as to why the reports were not timely filed. They responded on February 28, 2009, that "delays in filing have been a result of familial and personal setbacks that affected the Treasurer's ability to complete the required training, report composition and subsequent filings in a timely manner." More than six months later, Respondents again referred to the treasurer's familial situation in their September 4, 2009, response to our referral notification letter.

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**B. The FGCR and the Commission's RTB finding**

The FGCR recommended that the Commission find reason to believe that Respondents violated 2 U.S.C. §§ 434(a)(4)(A)(i) and (iii), enter into pre-probable cause conciliation, and approve the proposed conciliation agreement with a civil penalty.

On October 16, 2009, after we submitted the FGCR, we learned from RAD that the Respondents submitted new information regarding the 2004-2006 reports in response to the seven Requests for Additional Information ("RFAs") issued regarding the Committee's untimely filed reports.<sup>4</sup> The Respondents indicated that, although they maintained separate federal and non-federal bank accounts, they commingled federal funds with non-federal funds such that the 2004 and 2006 reports disclose federal and non-federal activity, and the 2005 reports disclose only non-federal activity.

According to the Respondents, they intended to conduct an internal review with assistance from trained professionals and file any necessary amended reports. In addition, they indicated that said review would take 120 days to complete.

We informed the Commission of this new information by email on October 19, 2009.

At the November 3, 2009, Executive Session, the Commission considered the FGCR in light of the new information and found reason to believe that the Respondents violated 2 U.S.C. § 434a(4)(A)(i) and (iii), instructed that we allow the Respondents a reasonable amount of time to conduct an internal review and file any necessary amended reports, and that we revise the Factual and Legal Analysis to encompass the updated information.

**C. Post-RTB revelations**

On November 9, 2009, we learned that the Respondents had completed the internal review and filed amended reports covering the period from April 1, 2004 to September 30, 2007. (The RFAs previously sent by RAD only sought additional information regarding the Committee's 2004-2006 reports. The remaining 2007 reports

<sup>4</sup> It originally appeared that there were two RFAs sent to the Respondents regarding its 2004-2006 reports. However, we later learned that there were, in fact, seven RFAs sent to the Respondents in September 2009 regarding these reports. They responded, in the form of two letters, to the seven RFAs which were placed on the public record on October 13, 2009, and October 16, 2009. Furthermore, on December 1, 2009, RAD sent Respondents two additional RFAs concerning their 2004 reports. Responses to those RFAs are due on January 5, 2010.

were amended by the Committee on its own in conjunction with the internal review.) As a result, the newly amended reports reflect a different level of activity than that indicated by the reports previously filed by the Committee that were the subject of the FGCR.

### **III. Conclusion**

Commission disclosure records indicate that, since 1994, the Respondents have repeatedly filed the Committee's reports untimely or failed to file reports at all.<sup>5</sup> However, based on the above facts, the Respondents' most recent amendments to their reports address their prior filing lapses, albeit untimely. Given the level of activity reflected, we believe that continued use of the Commission's resources in this matter is unwarranted. Accordingly, we recommend that the Commission take no further action in this matter and close the file, but caution the Respondents to file future reports timely and accurately in accordance with the Act. As the Commission requested at the November 3, 2009, Executive Session, we are circulating the proposed Factual and Legal Analysis, which includes the updated information, on a 48 hour no-objection basis for your review. Please let us know if there are any further questions on this matter.

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<sup>5</sup> The Committee was the subject of an Administrative Dispute Resolution ("ADR") matter, ADR #154, in 2004. The matter involved the Committee's failure to register and file financial reports after contributing and expending more than \$1,000 in connection with federal elections in 2002. The Commission entered into a settlement agreement with the Committee on June 9, 2004, in which the Committee acknowledged that their expenditures in connection with federal election campaigns in 2002 voided the terms of the Commission's administrative termination of November 2000. The Committee agreed to: 1) complete and file the missing campaign finance reports for the period from January 1999 through March 2004; 2) set up and maintain in the Committee's offices a resource file on the FECA to provide guidance for the current and future officers of the PAC; 3) send an appropriate representative to attend, within twelve months of the effective date of this agreement, a FEC seminar on federal election campaign reporting requirements; 4) identify one member of the Committee's staff to be responsible for FECA compliance; and 5) pay a civil penalty of \$500.